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OBLON  
SPIVAK  
McCLELLAND  
MAIER  
NEUSTADT  
R.C.

ATTORNEYS AT LAW

Docket No.: 199202US2X PCT

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/700,729

Applicants: Hideki KINUGAWA, et al.

Filing Date: November 30, 2000

For: SHOVEL

Group Art Unit: 3671

Examiner: PEZZUTO, R.

SIR:

Attached hereto for filing are the following papers:

**PETITION UNDER 37 C.F.R. 1.181(a)(3)**

Our check in the amount of \_\_\_\_\_ is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, R.C.

**COPY**

Norman F. Oblon

Registration No. 24,618

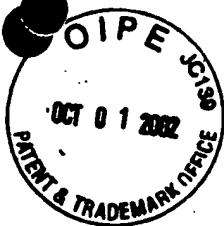


22850

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Robert T. Pous  
Registration No. 29,099

199202US-2X PCT



**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

**IN RE APPLICATION OF**

**HIDEKI KINUGAWA ET AL**

**: EXAMINER: PEZZUTO, R. E.**

**SERIAL NO: 09/700,729**

**:**

**FILED: NOVEMBER 30, 2000**

**: GROUP ART UNIT: 3671**

**FOR: SHOVEL**

**PETITION UNDER 37 C.F.R. §1.181(a)(3)**

**ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231**

**SIR:**

Applicants herein petition the examiner to exercise his supervisory authority to require the examiner to consider and make of record the prior art cited in the International Search Report and the prior art cited in the Information Disclosure Statement filed on July 26, 2002.

The present application was filed under the PCT. The notification of acceptance of application under 35 U.S.C. §371 (PCT Form 903) indicated that a copy of the International Search Report and copies of the references cited therein had been received by the U.S. PTO in its capacity as a designated office under the PCT (see attached PCT Form 903). In this circumstance, the examiner is required to consider the documents cited in the International Search Report (MPEP 609). There is no indication of record that the prior art cited in the International Search Report has in fact been considered by the examiner. Applicants therefore request that the commissioner exercise his supervisory authority to require the examiner to do so.

**COPY**

An Information Disclosure Statement was filed on July 26, 2002, including the elements required by 37 C.F.R. §1.97(d) (see attached). There is no indication of record that the examiner has considered this prior art, and so Applicants request that the commissioner exercise his supervisory authority to require the examiner to consider and make of record the prior art cited in the Information Disclosure Statement.

No fee is believed to be required for the present petition. However, if any fee is in fact required, the commissioner is authorized to withdraw any necessary fee from the undersigned attorney's deposit account no. 15-0030.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

**COPY**

Norman F. Oblon  
Attorney of Record  
Registration No. 24,618  
Robert T. Pous  
Attorney of Record  
Registration No. 29,099



**22850**

(703) 413-3000  
GJM:RTP/cja

I:\atty\RTP\199202.PET.wpd

UNITED STATES DEPARTMENT OF COMMERCE  
 Patent and Trademark Office  
 Address: ASSISTANT COMMISSIONER FOR PATENTS  
 Washington, D.C. 20231



U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/700729	KINUGAWA	H [REDACTED]
OBON SPIVAK MCCLELLAND MAIER & NEUSTADT FOURTH FLOOR 1755 JEFFERSON DAVIS HIGHWAY ARLINGTON, VA 22202		INTERNATIONAL APPLICATION NO.
		PCT/JP00/02080
LA. FILING DATE		PRIORITY DATE
31 MAR 00		31 MAR 99
DATE MAILED: 27 DEC 2000		

NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371  
 AND 37 CFR 1.494 OR 1.495

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as  a Designated Office (37 CFR 1.494),  an Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

30 NOV 00	30 NOV 00
35 U.S.C. 102(e) DATE	DATE OF RECEIPT OF 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371(C) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3.  A request for immediate examination under 35 U.S.C. 371(f) was received on 30 NOV 00 and the application will be examined in turn.

4. The following items have been received:

- U.S. Basic National Fee.
- Copy of the international application in:
  - a non-English language.
  - English.
- Translation of the international application into English.
- Oath or Declaration of inventor(s) for DO/EO/US.
- Copy of Article 19 amendments.  Translation of Article 19 amendments into English.  
 The Article 19 amendments  have  have not been entered.
- The International Preliminary Examination Report in English and its Annexes, if any.
- Copy of the Annexes to the International Preliminary Examination Report (IPER).
  - Translation of Annexes to the IPER into English.  
 The Annexes  have  have not been entered.
- Preliminary amendment(s) filed 30 NOV 00 and \_\_\_\_\_.
- Information Disclosure Statement(s) filed \_\_\_\_\_ and \_\_\_\_\_.
- Assignment document.
- Power of Attorney and/or Change of Address.
- Substitute specification filed \_\_\_\_\_.
- Verified Statement Claiming Small Entity Status.
- Priority Document.
- Copy of the international Search Report  and copies of the references cited therein.
- Other: \_\_\_\_\_.

RECEIVED IN FOREIGN FILING  
 DATE: 12/28/00  
 TIME: \_\_\_\_\_

RECEIVED  
 DEC 28 2000

OBON, SPIVAK, MCCLELLAND  
 MAIER & NEUSTADT, P.C.

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: HIDEKI KINUGAWA ET AL

SERIAL NO: 09/700,729

GAU: 3671

FILED: NOVEMBER 30, 2000

EXAMINER: PEZZUTO, R.

FOR: SHOVEL

**INFORMATION DISCLOSURE/RELATED CASE STATEMENT UNDER 37 CFR 1.97**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Applicant(s) wish to disclose the following information.

**REFERENCES**

- The applicant(s) wish to make of record the references cited in the European Search Report and listed on the attached form PTO-1449. Copies of the listed references are attached, where required, as are either statements of relevancy or any readily available English translations of pertinent portions of any non-English language references.
- A check is attached in the amount required under 37 CFR §1.17(p).

**RELATED CASES**

- Attached is a list of applicant's pending application(s) or issued patent(s) which may be related to the present application. A copy of the patent(s), together with a copy of the claims and drawings of the pending application(s) is attached along with PTO 1449.
- A check is attached in the amount required under 37 CFR §1.17(p).

**CERTIFICATION**

- Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement.
- No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned, having made reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this statement.

**DEPOSIT ACCOUNT**

- Please charge any additional fees for the papers being filed herewith and for which no check is enclosed herewith, or credit any overpayment to deposit account number 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

**COPY**

Norman F. Oblon

Registration No. 24,618

Robert T. Pous

Registration No. 29,099



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(OSMMN 10/98)

TBK

# TIEDTKE - BÜHLING - KINNE & PARTNER (Gbr)



TBK-Patent POB 20 19 18 80019 München

KOBE STEEL, LTD.  
Intellectual Property Department  
5-5, Takatsukadai, 1-chome  
Nishi-ku, Kobe, Hyogo 651-2271  
JAPAN

Attn.: Mr. Maromu Aoki  
General Manager  
Intellectual Property Dept.

**Patentanwälte**  
Dipl.-Ing. Reinhard Kinne  
Dipl.-Ing. Hans-Bernd Peltmann  
Dipl.-Ing. Klaus Grams  
Dipl.-Ing. Aurel Vollhais  
Dipl.-Ing. Thomas J.A. Leson  
Dipl.-Ing. Dr. Georgi Chivarov  
Dipl.-Ing. Matthias Grill  
Dipl.-Ing. Alexander Kühn  
Dipl.-Ing. Rainer Böckelen  
Dipl.-Ing. Stefan Klingele  
Dipl.-Chem. Stefan Böhlung  
Dipl.-Ing. Ronald Roth  
Dipl.-Ing. Jürgen Faller

June 12, 2002

Your ref.: FPC007-003 Our ref.: EP 28546  
European Patent Application No.: 00 913 010.5  
Kobelco Construction Machinery Co., Ltd.

Dear Mr. Aoki,

Enclosed please find copies of the following documents:

- European Search Report
- Additional European Search Report
- Supplementary European Search Report
- Final European Search Report
- Declaration (which under Rule 45 EPC shall be considered as the European Search Report)
- References cited in the European Search Report (1 sets). In order to save costs the cited references have not been studied yet
- Modified abstract

We hope to have been of service to you and enclose our invoice for services rendered.

Very truly yours,

**COPY**

Thomas J.A. Leson  
Patentanwalt  
*TBK-Patent*



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FAX +31 70 340 3016

Europäisches  
Patentamt

Zweigstelle  
in Den Haag  
Recherchen-  
abteilung

European  
Patent Office

Branch at  
The Hague  
Search  
division

Office européen  
des brevets

Département à  
La Haye  
Division de la  
recherche

Leson, Thomas Johannes Alois, Dipl.-Ing.

Patentanwälte

Tiedtke-Bühling-Kinne & Partner

Bavariaring 4

80336 München

ALLEMAGNE

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EINGEGANGEN

- 6. Juni 2002

TBK - PATENT

Datum/Date

06.06.02

Zeichen/Ref./Ref.	Anmeldung Nr./Application No./Demande n°/Patent Nr./Patent No./Brevet n°.
EP 28546	00913010.5-1262-JP0002060
Anmelder/Applicant/Demandeur/Patentinhaber/Propriétaire/Titulaire	

KOBELCO CONSTRUCTION MACHINERY CO., LTD.

## COMMUNICATION

The European Patent Office herewith transmits as an enclosure the European search report for the above-mentioned European patent application.

If applicable, copies of the documents cited in the European search report are attached.

Additional set(s) of copies of the documents cited in the European search report is (are) enclosed as well.

COPY



## REFUND OF THE SEARCH FEE

If applicable under Article 10 Rules relating to fees, a separate communication from the Receiving Section on the refund of the search fee will be sent later.



European Patent  
Office

**SUPPLEMENTARY  
EUROPEAN SEARCH REPORT**

Application Number  
EP 00 91 3010

<b>DOCUMENTS CONSIDERED TO BE RELEVANT</b>					
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.)		
X	<p><b>PATENT ABSTRACTS OF JAPAN</b> vol. 013, no. 133 (M-809), 4 April 1989 (1989-04-04) &amp; JP 63 300131 A (SHIN CATERPILLAR MITSUBISHI LTD), 7 December 1988 (1988-12-07) * abstract *</p> <p>-----</p>	1,7	<p>E02F9/20 B60K6/02 F15B11/00</p>		
<b>TECHNICAL FIELDS SEARCHED (Int.Cl.)</b>					
E02F					
The supplementary search report has been based on the last set of claims valid and available at the start of the search.					
2					
Place of search	Date of completion of the search	Examiner			
THE HAGUE	29 May 2002	Sheppard, B			
<b>COPY</b>					
<b>CATEGORY OF CITED DOCUMENTS</b> X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document					
T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons & : member of the same patent family, corresponding document					
PO FORM 1503 03.82 (P04C04)					

ANNEX TO THE EUROPEAN SEARCH REPORT  
ON EUROPEAN PATENT APPLICATION NO.

EP 00 91 3010

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report. The members are as contained in the European Patent Office EDP file on. The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

29-05-2002

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
JP 63300131 A	07-12-1988	NONE	

COPY

# EUROPEAN PATENT OFFICE

## Patent Abstracts of Japan

PUBLICATION NUMBER : 63300131  
 PUBLICATION DATE : 07-12-88

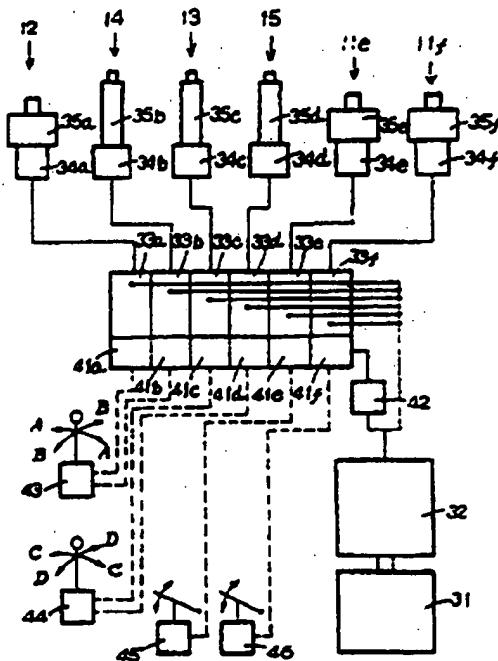
APPLICATION DATE : 30-05-87  
 APPLICATION NUMBER : 62137025

APPLICANT : SHIN CATERPILLAR MITSUBISHI LTD;

INVENTOR : NOSAKA HIROSHI;

INT.CL. : E02F 3/43 E02F 9/20

TITLE : ELECTRIC POWER SHOVEL



**ABSTRACT :** PURPOSE: To enhance the operability of an electric power shovel by a method in which the drive power sources of traveling, slewing, and working machine systems are all made up of an electric drive actuator and the electric drive actuator of the working machine system is made up of a motor-driven linear actuator.

**CONSTITUTION:** By the power of a generator 32 driven by an engine 31, motors 34a-34f are driven through power controllers 33a-33f. The motors 34a, 34e, and 34f are integrated with reduction gears 35a, 35e, and 35f to make up electric drive actuators for a slewing system 12 and traveling systems 11e and 11f and the motors 34b, 34c, and 34d are integrated with linear operation systems 35b, 35c, and 35d to make up motor-driven linear actuators. The boom 13, arm 14, and bucket 15 of the working machine system are worked by link motion by converting the rotation of each motor into linear motion.

COPYRIGHT: (C)1988,JPO&Japio

**COPY**

Dept: EM  
By: NFO:RTPcfid

OSMM&N File No. 199202US2X PCT

Serial No. 09/700,729

In the matter of the Application of: HIDEKI KINUGAWA ET AL

For: SHOVEL

The following has been received in the U.S. Patent Office on the date stamped hereon:

<input type="checkbox"/> pp. Specification &	Claims/Drawings	Sheets
<input type="checkbox"/> Combined Declaration, Petition & Power of Attorney		pages
<input type="checkbox"/> List of Inventor Names and Addresses		
<input type="checkbox"/> Utility Patent Application		RCE
<input type="checkbox"/> Notice of Priority		<input type="checkbox"/> Priority Doc ( )
<input checked="" type="checkbox"/> Check for \$180.00		<input checked="" type="checkbox"/> Dep. Acct. Order Form
<input type="checkbox"/> Fee Transmittal Form		
<input type="checkbox"/> Assignment/PTO 1595 pages:		
<input type="checkbox"/> Letter to Official Draftsman		
<input type="checkbox"/> Letter Requesting Approval of Drawing Changes		
<input type="checkbox"/> Drawings	sheets	<input type="checkbox"/> Formal
<input type="checkbox"/> Letter (Cover)		
<input type="checkbox"/> Amendment w/marked-up copy		
<input checked="" type="checkbox"/> Information Disclosure Statement		
<input checked="" type="checkbox"/> Cited References (1)		
<input checked="" type="checkbox"/> European Search Report		
<input type="checkbox"/> Statement of Relevancy		
<input type="checkbox"/> IDS/Related/List of Related Cases		
<input type="checkbox"/> Restriction Response		
<input type="checkbox"/> Declaration Under 37 C.F.R. §1.132		
<input type="checkbox"/> Petition for Extension of Time ( )		
<input type="checkbox"/> Notice of Appeal		
<input type="checkbox"/> Terminal Disclaimer		
... Request For Reconsideration		
<input type="checkbox"/> White Advance Serial Number Card		
<input type="checkbox"/> Appeal Brief		
<input type="checkbox"/> Petition Under 37 C.F.R. §1.181(a)(3)		
<input type="checkbox"/> Draft w/Changes		

■ PTO-1449

Cited Pending Applications

Election Response



COPY

Due Date: 7-26-02



## PART B - FEE(S) TRANSMITTAL

OK to Enter *RY*

Complete and send this form, together with applicable fee(s), to: Mail Box ISSUE FEE  
Commissioner for Patents  
Washington, D.C. 20231  
Fax (703)746-4000

*BR/BP*

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legally binds up with any corrections or use Block 1)

22850 7590 07/02/2002



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Notes: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission  
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

*New Address Label*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,729	11/30/2000	Hideki Kinugawa	199202US2PCT	1310

TITLE OF INVENTION: SHOVEL

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1280	\$0	\$1280	10/02/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
PEZZUTO, ROBERT ERIC	3671	037-347000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

*OBLON, SPIVAK,*

*MCCLELLAND, MAIER*

*& NEUSTADT, P.C.*

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

KOBELCO CONSTRUCTION MACHINERY CO., LTD. Hiroshima-shi, JAPAN

Please check the appropriate assignee category or categories (will not be printed on the patent)  individual  corporation or other private group entity  government

4a. The following fee(s) are enclosed:

4b. Payment of Fee(s):

Issue Fee

A check in the amount of the fee(s) is enclosed.

Publication Fee

Payment by credit card. Form PTO-2038 is attached.

Advance Order - # of Copies -10-

The Commissioner is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number 5-0030 (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) *Robert Pezzuto, Reg. No. 24,803 Oct. 1, 2002* (Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

10/03/2002 HUUDMB2 00000038 09700729

01 FC:142  
02 FC:561

1280.00 0P  
30.00 0P

TRANSMIT THIS FORM WITH FEE(S)